IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2631 OF 1994

WORKERS' EDUCATION SOCIETY ..PETITIONER

V/S

SHANKARRAO EKNATH AWALE & ANR. ..RESPONDENTS

Ajit Karwande for the Petitioner.

A.P. Vanasbe AGP for Respondent No.2.

CORAM : A.P. DESHPANDE, J.

DATE : 9TH JANUARY, 2007.

ORAL JUDGMENT

1. Heard. The Petitioner was working as Assistant Teacher in a Secondary Night School. Since in academic session 1991-92 one of the division of 8th standard was closed down the petitioner was rendered excess and hence retrenchment notice was sent to the petitioner dated 18-7-1991. Besides, action is purportedly taken under Rule 27 of MEPS Rules, obviously reference to Rule 27 is incorrect and same ought to have been Rule 26 which

deals with the consequences on account of closure of the part of the school and the effect thereon in regard to the service of the employees. Aggrieved by the order of termination/retrenchment the petitioner filed an Appeal before the School Tribunal and as the School Tribunal allowed the Appeal, the Petitioner - Education Society has filed this petition challenging the order passed by the Tribunal. While issuing Rule this court had directed the Respondent No. 2 to grant absorption to the petitioner under MEPS Rules. Learned counsel for the Respondent No. 1 states that pursuant to the interim order passed by this court dated 3-8-1994 the petitioner has been granted absorption with effect from 27-8-1994. As the Respondent No. 1 has been granted absorption pursuant to the order passed by this court nothing remains to be adjudicated. Learned counsel for the Respondent No. 1 submits that the Respondent No. 1 was entitled to be absorbed immediately and the Respondent No. 1 ought not to have made to suffer on account of delay in absorption. Hence prayer is made for granting continuity of service by condoning the leave period from 1-7-91 to 27-8-94.

It is reiterated that the Respondent No. 1 was

working as Assistant Teacher in the Night School and has been absorbed in another Night School. For protecting prior service the Respondent No. 1 need to be granted continuity of service. The Respondent No. 1 does not press for salary for the period commencing 1-7-91 to 27-8-1994. In view of the above, the Writ Petition deserves to be allowed. In the result the impugned order passed by the Tribunal is quashed and set aside. However, it is made clear that the absorption of the petitioner pursuant to the interim order passed by this court is in continuity of his service in the night school. Rule is made absolute.

———

(A.P. DESHPANDE, J.)